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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:
Martin H. Graham
Serial No.: 09/221,291
Filed: December 23, 1998
For: Biphase Multiple Level Communications

Art Unit: 2631
Examiner: Burd, Kevin Michael

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REPLY BRIEF UNDER 37 C.F.R. §41.41

Dear Sir:

This is in response to the Examiner's Answer mailed to applicant on 02/22/2006, in the above-captioned case.

The issue on claims 19-22, 24 and 25 is whether the claims are obvious based on Gord in view of Vanderpool.

There is no reason why one skilled in the art would combine Gord with Vanderpool. There is no rationale in the Examiner's answer for why these two references should be combined. Perhaps more importantly, it should be noted that Gord does not teach alternating the biphasic pulses. Gord teaches using one polarity of a biphasic pulse to transmit a "1" and another polarity of the biphasic pulse to transmit a "0." For the combination of Gord and Vanderpool to teach claim 1, Gord would have to transmit

10101010. Gord does not teach transmitting such a code and it would be inconsistent with the teachings of Gord since alternating the pulses would not transmit meaningful data. The Examiner's answer states:

However, Figure 8 of Gord shows the generation of biphasic pulses with alternating polarity.

Figure 8 shows the pattern for the input data as 110000. The biphasic pulses are not alternating rather they represent the data stream 110000. To the extent the Examiner's Answer is suggesting taking the "10" from the stream of 110000 to meet the claim, this is addressed below.

The Examiner's Answer also states:

Appellant, also, states, the combination would require Gord to transmit a sequence of 101010101010. This is not entirely correct. If the combination of Gord and Vanderpool were to transmit the sequence of 101010101010 (sic 01010101?) (with, of course, data encoded in the time period between the biphasic pulses) the limitations of the claims would be met.

Applicant assumes that what was meant here was that 10101010 or 01010101 of Gord would also meet the limitation of the claim if combined with Vanderpool. While this may be true, again there is no teaching for either.

It appears that the Examiner's Answer may be relying on a single transmission by Gord of a "1" followed by a "0" or a "0" followed by a "1". Clearly this would occur in Gord when Gord is transmitting meaningful data. However, to pull this out of Gord and combined it with Vanderpool is inconsistent with the teachings of Gord and makes no sense. There would be no justification for taking a portion of Figure 8 (i.e. two bits) and combining it with Vanderpool. Merely taking two consecutive pulses from one patent and combining it with another without some justification for this combination is inconsistent with an obvious rejection. There must be some suggestion or nexus to justify a combination. Virtually no combination would be patentable if prior art elements could

be combined in a rejection without there being some nexus or teaching to justify the combination.

There is absolutely no justification for combining Gord with Vanderpool, and there is even less justification for selecting consecutive pulses from Gord and combining them with Vanderpool.

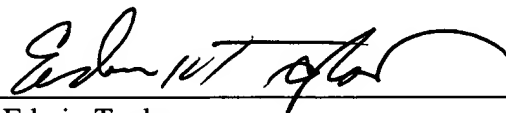
Charge Our Deposit Account

If there are any further charges not accounted for herein, please charge them to our deposit account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: 4/24/06

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